

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

PIOTR J. GARDIAS,
Plaintiff,

v.

SAN JOSE STATE UNIVERSITY,
Defendant.

No. C04-04086 HRL

Consolidated With: C04-04768 HRL
C05-01242 HRL
C05-01833 HRL
C06-04695 HRL

**INTERIM ORDER SETTING BRIEFING
AND HEARING SCHEDULE RE
PLAINTIFF'S "MOTION TO COMPEL:
REQUEST FOR HIRING DOCUMENTS"**

On January 22, 2007, plaintiff filed a "Motion to Compel: Request for Hiring Documents" in which he seeks an order compelling defendant to produce certain documents – "Cover Letters, Applications for Employment, Applications Summary Review – Employment Services, Committee Interview Evaluations and Applications Summary" pertaining to certain applicants (Scott Anderson and Chris Nordby) and positions (Chief Engineer, Associate Director Energy Systems and Chief Engineer Cogeneration Turbine).

However, there was no indication in the moving papers that plaintiff made any effort to meet-and-confer with defense counsel about the issues raised in his motion. *See* FED.R.CIV.P. 37(a)(2)(B); *see also* CIV. L. R. 37-1. As such, this court issued an interim order directing the parties to (1) meet-and-confer on the issues and (2) file declarations by February 9, 2007

advising as to the status of the dispute.

This court has received the parties' February 9, 2007 declarations, plaintiff's February 16, 2007 declaration and defense counsel's February 26, 2007 supplemental declaration. It appears that some documents have been produced (or perhaps do not exist), and the universe of documents which remain in dispute is not entirely clear. Nevertheless, the parties' declarations indicate that there is still some dispute over the documents plaintiff says he requested – including job applications or summaries pertaining to Anderson and Nordby (and those pertaining to plaintiff himself) and the “notes of SJSU investigators” Brad Davis and Adriana Duffy-Horling. Therefore, the court will set a briefing and hearing schedule on the motion as follows:

1. Defendant shall file an opposition brief no later than **March 27, 2007**.
2. Plaintiff's reply shall be filed no later than **April 3, 2007**.
3. Plaintiff's “Motion to Compel: Request for Hiring Documents” will be heard on **April 17, 2007, 10:00 a.m. in Courtroom 2**. If, upon review of the parties' papers, the court determines that the motion appropriately may be deemed submitted without oral argument, it will so notify the parties in advance of the hearing.¹

Additionally, the court notes that Plaintiff's declarations seem to raise new issues concerning interrogatories he either has served or intends to serve on defendant. However, those are matters which are not currently before the court on the instant motion. To the extent there is a dispute over plaintiffs' interrogatories which he is unable to resolve through good faith meet-and-confer negotiations, plaintiff may seek relief from the court through a motion filed in accordance with the court's Civil Local Rules. However, plaintiff is again reminded that he must confer with defense counsel to attempt to resolve all issues before filing a motion with the court. See FED.R.CIV.P. 37(a)(2)(B) (A motion to compel discovery responses “must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure the information or

¹ In issuing this order, the court expresses no opinion as to defendant's pending “Motion to Enforce Settlement Agreement,” currently set for hearing on March 20, 2007.

1 material without court action.”); *see also* Civ. L. R. 37-1 (the court will not entertain a motion
2 to resolve a discovery dispute unless the parties have previously conferred in an attempt to
3 resolve all disputed issues).

4 IT IS SO ORDERED.

5 Dated: March 2, 2007


6 HOWARD R. LLOYD
7 UNITED STATES MAGISTRATE JUDGE
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A copy of this document will be mailed to:

Piotr J. Gardias
72 Floyd St.
San Jose, CA 95110

Pro Se Plaintiff

Mary Susan Cain-Simon
CA State Attorney General's Office
1515 Clay Street, 20th Floor
P. O. Box 70550
Oakland, CA 94612-0550

Counsel for Defendant

Dated: 3/2/07

/s/

Chambers of Magistrate Judge Lloyd